

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine
the Commission's Future Energy
Efficiency Policies, Administration and
Programs.

FILED
PUBLIC UTILITIES COMMISSION
AUGUST 23, 2001
SAN FRANCISCO OFFICE
RULEMAKING 01-08-028

ORDER INSTITUTING RULEMAKING**I. Summary**

This Order Instituting Rulemaking (OIR) is designed to examine the Commission's future energy efficiency policies, administration and programs.¹ Given the increasing importance of energy efficiency and conservation programs in providing tools to consumers to lower their energy bills and minimize the impact of the California energy situation on their lives, we recognize the need for taking a comprehensive look at our policies and rules governing these programs.

In the short term, we wish to encourage utilities and non-utilities to propose energy efficiency programs for 2002 and beyond. To assist entities that wish to propose programs, we will delineate specific program evaluation criteria in an upcoming ruling. We recognize that it is important to ensure the continuity of programs and funding, both for the consumers of the service and the

¹ For the purpose of this Rulemaking, energy efficiency programs exclude low-income assistance activities, including the Low-Income Energy Efficiency (LIEE) program. LIEE and other low-income assistance programs are being addressed in a separate Rulemaking, also issued today.

upstream providers of services and equipment in the energy efficiency market. We will endeavor to minimize potential disruptions.

For the longer term, we also plan in this proceeding to settle on the appropriate administrator(s) of Commission-ordered energy efficiency programs. Currently, the large investor owned utilities (IOUs) – Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), San Diego Gas and Electric Company (SDG&E), and Southern California Gas Company (SoCalGas) – administer the programs.

Decision (D.) 99-03-056 created the expectation that such administration for energy efficiency would not continue into 2002, stating, “Interim utility administration of energy efficiency programs should not continue past December 31, 2001.”² However, there is insufficient time to change the basic structure of administration before the beginning of 2002. Therefore the IOUs should continue, until we notify them of a change, to assume responsibility for energy efficiency program administration. In connection with that responsibility, we direct the IOUs to retain appropriate existing personnel to manage these energy efficiency programs.

II. Preliminary Scoping Memo

A. Policy Rules Governing Energy Efficiency Programs

This proceeding will set out a revised set of policy goals and objectives governing the Commission’s oversight of energy efficiency programs. The policy rules will cover, at a minimum, the following issues:

- Program goals and objectives;

² D.99-03-056, 1999 Cal. PUC LEXIS 327, at *50 (Conclusion of Law 2).

- Preferred program design guidelines and eligibility;
- Standard definitions;
- Cost-effectiveness rules and definitions;
- Compensation and performance incentives for administrators;
- Evaluation, measurement and verification requirements; and
- Structure of the Commission's review process.

B. Energy Efficiency Programs

In this section of this proceeding, we will undertake two sets of activities related to energy efficiency program design:

- A review and assessment of Commission energy efficiency programs between 1998 and 2001, and³
- A solicitation and review process for selecting energy efficiency programs that will commence in 2002.

We also intend to utilize this proceeding as a forum for obtaining ongoing feedback from parties on program performance, both in the past and in the future.

Due to time considerations, we will likely begin to solicit proposals for 2002 programs before we complete a comprehensive assessment of past programs. Thus, we direct the Assigned Commissioner and Administrative Law Judge (ALJ) for this proceeding to issue a ruling (2002 Ruling) containing criteria for program proposals for programs beginning in 2002. We will invite written comment on the criteria before proposals are due. Parties shall use the criteria in

³ We direct the Energy Division to perform the evaluation and to hire consultants for this purpose utilizing energy efficiency program funds, if required.

the 2002 Ruling to devise their proposals, and should attempt to maximize the extent to which the proposals conform to the criteria.

In order to encourage diverse program proposals, we urge non-utilities to propose their ideas for programs to the Commission. We are especially interested in proposals for program implementation that are specific and detailed.

We expect to encourage program proposals that, among other things:

- Utilize the Consumer Power and Conservation Financing Authority's (Power Authority) loan capability;
- Have statewide reach and consistency;
- Extend beyond 2002;
- Maximize short and long-term energy and peak demand savings;
- Equitably allocate funding for programs among energy efficiency providers and consumers, by sector, geography and income levels;
- Are cost effective;
- Include mechanisms for program evaluation and verification of energy and cost savings;
- Are easily understood by consumers;
- Do not create heavy training burdens for personnel who will be responsible for carrying out the programs;
- Are jointly sponsored by more than one utility or non-utility;
- Explain not only how to inform consumers about the programs, but how, at the same time, to secure consumer commitment to participate in the programs;
- Leverage state and other public awareness messages currently available;

- Include financial incentives for both providers and consumers to participate in energy efficiency programs; and
- Describe how the program will be effectively marketed to its target audience.

We also wish to continue programs that already have a proven track record of success, even if we require changes to certain aspects of those programs to match the criteria we develop in this proceeding. Parties proposing to continue existing programs should submit proposals that conform to the general principles set forth here and meet the criteria contained in the upcoming 2002 Ruling.

C. Program Administration

As acknowledged above, previous Commission decisions, including D.99-03-056, articulate a policy preference for non-utility administration of energy efficiency programs. Before stating with certainty our preferred future administrative structure for energy efficiency, as well as other consumer demand-side management programs, we will first undertake an assessment of the effectiveness of existing and past utility programs, particularly those implemented subsequent to AB1890, and of other methods of administering energy efficiency programs.

III. Category of Proceeding

Rule 6(c)(2) of our Rules of Practice and Procedure provides that the order instituting rulemaking “shall preliminarily determine the category” of the proceeding. This rulemaking is preliminarily determined to be quasi-legislative, as that term is defined in Rule 5(d).

IV. Parties And Service List

We will serve this OIR on parties to several proceedings: A.99-04-049 *et al.*, R.98-07-037, and A.00-11-037 *et al.* “Respondents” shall file comments in response to the 2002 Ruling, and comments addressing the policy, program assessment and administration issues we raise in this proceeding. Respondents are PG&E, SCE, SDG&E, and SoCalGas. Interested parties may file such comments and proposals.

Within 15 days from the date of mailing of this order, any person or representative of an entity interested in monitoring or participating in this rulemaking should send a letter to the Commission’s Process Office and to the Public Advisor’s Office, 505 Van Ness Avenue, San Francisco, California 94102, asking that his or her name be placed on the service list. The Process Office thereafter will create a service list and distribute it to all parties in this proceeding. This initial service list shall also be posted on the Commission’s web site, www.cpuc.ca.gov, as soon as is practicable. Persons who wish to become a “party” to this proceeding may also appear at the first PHC and fill out the “Notice of Party/Non-Party Status” form (appearance form) at that time.

All parties shall abide by the Electronic Service Proposals set forth in Appendix A to this OIR.

V. Workshops

We anticipate holding at least two workshops: one to assist parties in designing program proposals; and the other to examine program administration options.

VI. Schedule

A preliminary schedule for this proceeding will be discussed at the first prehearing conference (PHC) on September 10, 2001 at 10:00 a.m., in the Commission Courtroom, 505 Van Ness Avenue, San Francisco.

Consistent with Rule 6(e), we expect this proceeding to be concluded within 18 months.

VII. Objection to Category

Any person who objects to the preliminary categorization of this rulemaking shall raise such objection no later than 10 calendar days after the Commission issues this OIR.

VIII. Public Advisor

Any party interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Commission Public Advisor's Office in Los Angeles at (213) 576-7056, or in San Francisco at (415) 703-2074, (866) 836-7875 (TTY – toll free) or (415) 703-5282 (TTY).

IX. Ex Parte Communications

This proceeding is subject to Rule 7, which specifies standards for engaging in *ex parte* communications and the reporting of such communications. Pursuant to Rules 7(a)(4) and 7(d), *ex parte* communications will be allowed in this proceeding without any restrictions or reporting requirements until the assigned Commissioner makes an appealable determination of category as provided for in Rules 6(c)(2) and 6.4. Following the Commissioner's determination, the applicable *ex parte* communication and reporting requirements shall depend on such determination unless and until the Commission modifies the determination pursuant to Rule 6.4 or 6.5.

Therefore, **IT IS ORDERED** that:

1. A rulemaking is instituted on the Commission's own motion to examine the Commission's future energy efficiency policies, programs, evaluation and administration.

2. Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), San Diego Gas and Electric Company (SDG&E), and the Southern California Gas Company (SoCalGas), are Respondents to this proceeding.

3. The Executive Director shall cause this Order Instituting Rulemaking (OIR) to be served on Respondents, the California Energy Commission, and the parties to the following existing Commission proceedings: Application (A.) 99-09-049, *et al.*, R.98-07-037, and A.00-11-037, *et al.*

4. Within 15 days from the date of mailing of this order, any person or representative of an entity interested in monitoring or participating in this rulemaking should send a letter to the Commission's Process Office and to the Public Advisor's Office, 505 Van Ness Avenue, San Francisco, California 94102, asking that his or her name be placed on the service list. Parties shall also appear at the first prehearing conference (PHC) in order to enter an appearance in the proceeding.

5. The category of this rulemaking is preliminarily determined to be "quasi-legislative" as that term is defined in Rule 5(d) of the Commission's Rules of Practice and Procedure.

6. Any person who objects to the preliminary categorization of this rulemaking shall raise such objection no later than 10 calendar days after the Commission issues this OIR.

7. Those who wish to file comments on the policy, administration and program evaluation issues identified in this OIR shall submit and serve their

comments in accordance with the schedule developed at the first PHC, or in a subsequent ruling.

8. Respondents shall retain appropriate existing personnel to administer energy efficiency programs until further notice issues from the Commission.

9. All parties shall abide by the Electronic Service Protocols attached as Appendix A hereto.

10. The first PHC shall be held on September 10, 2001, at 10:00 a.m. in the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco.

This order is effective today.

Dated August 23, 2001, at San Francisco, California.

LORETTA M LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners

APPENDIX A
ELECTRONIC SERVICE PROTOCOLS
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Party Status in Commission Proceedings

These electronic service protocols are applicable to all “appearances.” In accordance with Commission practice, by entering an appearance at a prehearing conference or by other appropriate means, an interested party or protestant gains “party” status. A party to a Commission proceeding has certain rights that non-parties (those in “state service” and “information only” service categories) do not have. For example, a party has the right to participate in evidentiary hearings, file comments on a proposed decision, and appeal a final decision. A party also has the ability to consent to waive or reduce a comment period, and to challenge the assignment of an Administrative Law Judge (ALJ). Non-parties do not have these rights, even though they are included on the service list for the proceeding and receive copies of some or all documents.

Service of Documents by Electronic Mail

For the purposes of this proceeding, all appearances shall serve documents by electronic mail, and in turn, shall accept service by electronic mail.

Usual Commission practice requires appearances to serve documents not only on all other appearances but also on all non-parties in the state service category of the service list. For the purposes of this proceeding, appearances shall serve the information only category as well since electronic service minimizes the financial burden that broader service might otherwise entail.

Notice of Availability

If a document, including attachments, exceeds 75 pages, parties may serve a Notice of Availability in lieu of all or part of the document, in accordance with Rule 2.3(c) of the Commission’s Rules of Practice and Procedure.

Filing of Documents

These electronic service protocols govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rule 2, *et seq.*, of the Commission’s Rules of Practice and Procedure. Moreover, all filings shall be served in hard copy (as well as e-mail) on the assigned ALJ.

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Electronic Service Standards

As an aid to review of documents served electronically, appearances should follow these procedures:

- Merge into a single electronic file the entire document to be served (*e.g.* title page, table of contents, text, attachments, service list).
- Attach the document file to an electronic note.
- In the subject line of the note, identify the proceeding number; the party sending the document; and the abbreviated title of the document.
- Within the body of the note, identify the word processing program used to create the document. (Commission experience indicates that most recipients can open readily documents sent in Microsoft Word or PDF formats)

If the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternative service (paper mail shall be the default, unless another means is mutually agreed upon).

Obtaining Up-to-Date Electronic Mail Addresses

The current service lists for active proceedings are available on the Commission's web page, www.cpuc.ca.gov. To obtain an up-to-date service list of e-mail addresses:

- Choose "Proceedings" then "Service Lists."
- Scroll through the "Index of Service Lists" to the number for this proceeding.
- To view and copy the electronic addresses for a service list, download the comma-delimited file, and copy the column containing the electronic addresses.

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The Commission's Process Office periodically updates service lists to correct errors or to make changes at the request of parties and non-parties on the list. Appearances should copy the current service list from the web page (or obtain paper copy from the Process Office) before serving a document.

Pagination Discrepancies in Documents Served Electronically

Differences among word-processing software can cause pagination differences between documents served electronically and print outs of the original. (If documents are served electronically in PDF format, these differences do not occur.) For the purposes of reference and/or citation in cross-examination and briefing, all parties should use the pagination found in the original document.

(END OF APPENDIX A)